

# AMERICAN FEDERATION OF POLICE

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## STATEMENT BY DEPUTY DENNIS RAY MARTIN

### PRESIDENT OF THE AMERICAN FEDERATION OF POLICE

BEFORE THE HOUSE OF REPRESENTATIVES ON APRIL 13TH, 1988

### SUBJECT: Diplomatic Immunity Problems and Training for Police

Mr. Chairman, Members of the Committee, Ladies and Gentlemen:

My name is *Dennis Ray Martin*, National President of the 68,000 member **American Federation of Police**, a nationwide non-profit federation of law enforcement officers, which emphasizes excellence within the law enforcement community by holding seminars and workshops throughout the country.

I am the Director of Training for the Saginaw County Sheriff's Department, and assist with training programs for eight other local law enforcement agencies in Michigan. I represent and serve on over sixty national boards and commissions promoting police professionalism at federal, state and local levels, with a special concern for our national defense program.

I am here to represent law enforcement officers' concerns on diplomatic crime, crimes committed by individuals who are presently exempt from prosecution by reason of diplomatic immunity. We believe that no one is above the law, yet a duality does exist. Our adversary in this situation is not the traditional criminal, but the unique criminal with the broad coverage of diplomatic immunity.

Justice, the lack of it, sends shivers down the back of our nation's law enforcement community. No one, not even the president of the United States, can commit a crime and then not face the consequences of that act.

Yet, we must deny our citizens access to our courts and the protections of our laws, both criminal and civil, when it involves privileged immunized individuals in the name of advancement of good relations with foreign governments.

Granting special privileges or concessions to individuals who break the law creates particular problems for the police. These privileges and concessions are contrary to the oath and training that police officers are sworn to uphold. These special protections afforded all employees of foreign governments, who are present here as official representatives of their home governments, are questionable. How can a multi-rapist identified in New York City by victims not only walk out of the police station laughing, but thwart justice on an international scale?

We are concerned that terrorists could, and we have every reason to believe, have shipped under the protection of diplomatic immunity Pouches

(over)

and such items as small armed weapons and explosives to be used against law enforcement officers.

Our own committee chairman on intelligence and narcotics matters has advised me that diplomatic credentials are sold by some nations for the purpose of preventing custom agents from discovering drugs being brought in and money being shipped out under diplomatic immunity or other criminal enterprises. Although we are bringing attention to the problems diplomatic immunity may present, there has been relatively little written to assist the line police officer in dealing with individuals with immunity.

A.F.P. polled several major departments in the Washington, D.C., New York area who confess they lack adequate training in this area, finding the departments want to be kept abreast of this very important legislation you are addressing today. The A.F.P. took on the task of preparing and training police regarding the privileges and immunities that foreign diplomats and consular personnel possess. A.F.P. has distributed hundreds of law enforcement training pocket manuals which were developed to assist officers who must confront foreign diplomats and consular personnel on a daily basis. We believe foreign diplomats who violate traffic laws should be cited. Allegations of serious crimes should be fully investigated, promptly reported to the Department of State and procedurally developed to the maximum permissible extent.

Both the staff and membership of the A.F.P. would like to commend Mrs. Roosevelt, Chief of Protocol, and her staff for assisting us with developing our non-traditional training workshops and pocket manual on the legal issues of immunity. I would like to point out that the Department of State enthusiastically received, endorsed and assisted A.F.P. with development of training and education efforts, as it applies to diplomatic immunity. In our great Nation legislators frame and construct our laws, attorneys study, interpret and present the law, our judges make the final interpretations and applications of the law and impose sanctions. But, we the law enforcement officers must apply the law immediately, give it its effectiveness, and execute the law in a direct personal fashion.

The passage of this bill will send a clear message to those lawbreakers who know our hands have been tied by the present laws, that they will no longer be able to wave a paper called diplomatic immunity and walk away scott free.

Let me conclude by saying thank you for allowing me to speak before you today. I feel that I represent the general response of our nation's 600,000 full time police officers and the millions of Americans we serve.

Thank you!



Dennis Ray Martin  
National President  
American Federation of Police

# DIPLOMATIC IMMUNITY

## A TRAINING GUIDE FOR LAW ENFORCEMENT OFFICERS



### I. BACKGROUND

As a result of custom, international treaty, and federal legislation, diplomats from around the world are granted immunity to both the criminal and civil laws. The type and amount of immunity depends upon the nature of the diplomat's official position, and the type of activity engaged in.

Accordingly, a diplomat who has full diplomatic immunity may not be arrested or held for any crime or civil wrong he commits. While this might at first glance seem unfair, it must be remembered that our diplomats in other countries are accorded the same privileges and immunities.

Your role as a police officer will depend upon the nature of the immunity given to the individual, and the nature of the reason for your contact with that individual. You should use this training guide as a guide only, and use the telephone numbers supplied in Section IV in case there is any doubt as to the appropriate action or response.

### II CLASSES OF DIPLOMATS

All persons who claim diplomatic privileges or immunities should be able to produce a valid identification card issued by the federal government. This card will in most cases verify the nature and extent of immunity. If for some reason the I.D. cannot be produced, the telephone numbers listed in Section IV of this bulletin can be used to verify the existence or absence of such immunity.

**A. Diplomatic Missions:** These are the people who comprise the diplomatic corps of their country to the United States. They are divided in to three classes depending on the type of functions performed.

**1. Diplomatic officers** are the persons sent by a foreign nation to deal directly with our nation over concerns of state. These people, and members of their immediate family, enjoy **full and absolute immunity to all criminal and civil laws**. They may not be arrested or held for a period longer than necessary to determine their status. Neither they or their belonging can be searched, detained in any way, or otherwise subjected to any legal process.

**2. Members of administrative and technical staff** perform tasks considered to be crucial for the proper functioning of an embassy. Accordingly they have **immunity to all criminal proceedings. And may not be compelled to testify in any proceeding.** They may however, be liable to civil suits for actions that are not official acts.

**3. Members of service staff** are the persons who perform mostly menial tasks, or tasks of a non-diplomatic nature such as house cleaning, gardening or driving embassy vehicles. These persons enjoy only **official acts immunity** for both criminal and civil acts. These people are subject to arrest.

**B. Members of International Organizations:** These are the official representatives of foreign governments to international organizations located in the United States such as the



*Plates as shown here are issued by the U.S. State Department and indicate immunity from parking violations. While tickets can and should be issued to document serious breach of conduct, there is no way to collect fines. Citizens often feel the immunity is a violation when they are towed or fined and others are "immune."*

United Nations or the Organization of American States. These are also divided into three classes, and the privileges and immunities parallel their function as does those members of embassies.

Use the accompanying chart, and the telephone numbers provided in Section IV to resolve any questions as to the appropriate actions.

**C. Consular Officers:** Besides their embassies, foreign government may maintain other offices in this country to carry out various business matters, or to provide services to their nationals in this country. While they do have some forms of immunity, this is usually less than that afforded to diplomatic agents. Use the accompanying chart, or call the numbers provided for further clarification.

**D. Automobiles:** All automobiles and drivers licences are issued by the Department of State, and both registration plates and licenses should indicate that some form of immunity is possessed by the bearer. License plates are usually coded with prefix or suffix matching the type of immunity. Therefore a "D" would indicate the car belonged to a diplo-



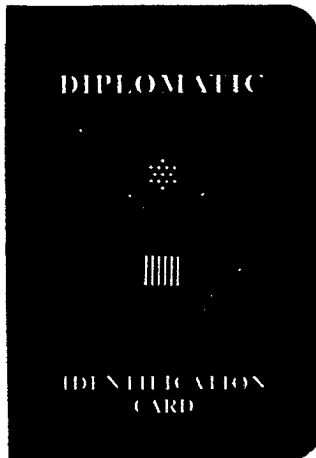
United States Department of State  
Office of Protocol

# IDENTIFICATION CARDS

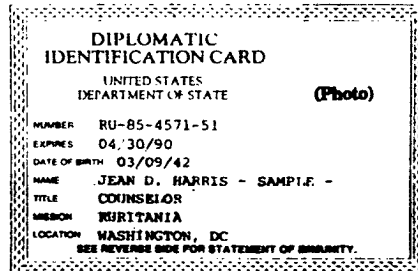


The United States Department of State, Office of Protocol, has begun issuing new identification documents to embassy personnel. It is estimated that issuance of these credentials will be completed by mid-1988. Subsequently, new identity documents will be issued to consular personnel. During this change, there will be two types of diplomatic identification cards in circulation; some persons will still have the old ID cards while other persons will have the new cards. Samples of both types of ID's are provided here. Because there are different degrees of immunity, law enforcement officers should read carefully identification cards presented to them. Questions regarding an individual's status or immunity should be referred during working hours to the Office of Protocol, 202/647-4294; after hours to the Bureau of Diplomatic Security, 202/647-2412.

## CURRENT



## NEW



This person has been duly notified to the Department of State and under international law enjoys immunity from criminal jurisdiction. The bearer shall not be liable to any form of arrest or detention, but may be given a notice of violation.

The bearer shall be treated with due respect and all appropriate steps shall be taken to prevent any attack on the bearer's person, freedom or dignity.

Chief of Protocol

LAW ENFORCEMENT AGENCIES SHOULD BE DIRECTED TO (202) 647-1985 FROM 8AM TO 5PM EASTERN TIME AND (202) 647-2412 AT ALL OTHER TIMES

IF FOUND, RETURN TO  
Office of Protocol  
Department of State  
Washington, DC 20520  
Return postage guaranteed

SIGNATURE (NOT VALID UNLESS SIGNED)

BLUE bordered cards are issued to diplomatic officers and their families. They are entitled to full criminal immunity and may not be arrested or detained.

matic officer, a "C" for a consular officer, and a "S" for a staff or technical officer.

**E. Drivers Licences:** The Department of State also issues drivers licenses to diplomats and their staffs. These are issued for a period of six months in the case of temporary ones, and for five years for permanent ones. In the absence of official I.D. cards, the drivers license may help substantiate the claim to immunity, but the officer should check with the government by calling the appropriate telephone number supplied in Section IV.

## II POLICE GUIDELINES

**A. Violent and Life-Threatening Situations:** In circumstances where the public safety is endangered, or it is apparent that a serious crime is about to be committed, the police may intervene to the extent necessary to halt the activity, to protect the citizens, or to protect themselves.

**B. Waiver and P.N.G. Procedure:** Even though a diplomat is entitled to immunity, all incidents, including traffic offenses, should be reported to the Department of State. The department can ask the government of the diplomat to waive immunity which would subject the individual to our courts. If the waiver is refused, the diplomat can be declared **persona non grata**. This would force the foreign government to call the diplomat home, and make him or her ineligible for diplomatic status in this country.

**C. Traffic Offenses:** Stopping a diplomatic officer and issuing a citation does not constitute an arrest, and is therefore allowed. You may not require a signature. You should always follow your normal procedure in stopping a traffic violation. Issue a citation, and report the incident even though it may later be determined that the individual does not have to appear in court.

**1. Drunk Driving:** Sobriety tests may be offered, but not compelled. The officer may prevent the individual from

driving if he determines that the person is intoxicated. Depending on the circumstances, the officer may:

- With his permission, take the individual to the station or other location until sober enough to drive;
- summon a friend, relative or employee to drive;
- call a taxi for the individual; and
- if appropriate, the police could provide transportation home.

**2. Motor Vehicles:** In the normal course of events, the motor vehicle of a person enjoying full immunity may not be searched, impounded, or "booted." They may however, be moved far enough to prevent them from being a hazard. Should the vehicle prove to be stolen, or to have been used by an unauthorized person the commission of a crime, it may be searched and impounded.

**D. Make Reports and File Investigations:** The U.S. State Department depends on thorough and complete investigations that may involve someone with diplomatic status. Even with the knowledge that whatever you may do may not result in either an arrest, fine or action, the State Department depends on you in the field. A report on every incident should be made. A copy sent to the U.S. State Department by your agency. Indeed the incident may be isolated. It could be however something more serious.

For an example, it is possible that a diplomat or agent of a foreign government is in an accident in your community. It might be of interest to the State Department as well as other agencies that a particular nation or individual was in your area which might be "restricted" for some reason. Or possibly the person has had a series of accidents or problems that are far too frequent.

Because of your report and others, that individual may be asked to leave the United States. Few foreign governments want to be represented by people that give their country a bad

name. They may be advised by the State Department of a "problem" that they were not aware about. Concerning a person in their service. So, these reports both good and bad are very helpful. They are only of value if copies are sent to the State Department or called in if urgent by phone.

Remember too that we must **protect** the diplomats. Thus your concern and assistance to a foreign diplomat is just as important as it is to any citizen of our own nation. If you have such contact where you have aided in an accident, illness or incident these too should be filed.

These men, women and children are strangers in this nation. Our customs and dress may be new or not the same in their homeland. As a police officer you may indeed be the person who makes the **first** and lasting impression! Fairness, cooperation and kindness are what **you** would expect when traveling abroad. That is what we implore of our police to do in every possible case where it is obvious of misunderstandings, etc. However, in no manner should you ignore criminal activity or conduct that is a public danger.

**E. Language Problems:** We seem to expect everyone to speak English. However, it is **possible** that you may run into a language barrier. Especially in an emergency situation or accident. There is a national company that serves police departments that can (by radio or phone) handle almost every language spoken in the world. Many large police agencies have contracts for this service. The company name is C.A.L.L. (Communication and Language Line), 177 Webster Street, Monterey, California 93940; (408) 646-0979.

You might want to have a state or county-wide contract not only to handle diplomatic problems but for **any** situation

where language may be a problem. Of course a call the the U.S. State Department would also give you help. Our duty is to help diplomats just as we would help **any** other person. The few diplomats or employees that are problems must **not** cloud or prejudice us in our duty to the vast majority who serve with dignity and honor. Also keep in mind that the United States has diplomats, consuls and staff worldwide. What we do here may effect their status and ability to serve our nation overseas.

## **I V TELEPHONE INFORMATION/VERIFICATION**

### **A. Diplomatic and Consular Personnel and International Organizations Other than United Nations:**

#### **1. Normal Business Hours:**

- a. Status of drivers licenses, registration, or other motor vehicle information: (202) 322-1095
- b. Diplomatic agents and their family members: (202) 647-1404
- c. Administrative and technical, service staff and families: (202) 647-1405

#### **2. After Normal Business Hours:**

- a. Command Center: Bureau of Diplomatic Security: (202) 647-2412

### **B. United Nations Personnel:**

#### **1. Normal Business Hours:**

- a. Host Country Section: (212) 415-4131

#### **2. After Business Hours:**

- a. Communication Section of the U.S. Mission: (212) 415-4444

Category	May Be Arrested or Detained	Residence May Be Entered Subject to Ordinary Procedures	May be Issued Traffic Citation	May be Subpoenaed as Witness	May be Prosecuted	Recognized Family Member
Diplomatic Agent	No <sup>2</sup>	No	Yes	No	No	Same as sponsor (full immunity & inviolability).
Member of Admin. and Tech. Staff	No <sup>2</sup>	No	Yes	No	No	Same as sponsor (full immunity & inviolability).
Service Staff	Yes <sup>1</sup>	Yes	Yes	Yes	No—for official acts. Otherwise, Yes <sup>1</sup>	No immunity or inviolability. <sup>1</sup>
Career Consular Officers	Yes, if for a felony & pursuant to a warrant <sup>1</sup>	Yes <sup>1</sup>	Yes	No—for official acts. Testimony may not be compelled in any case.	No—for official acts. Otherwise, Yes <sup>1</sup>	No immunity or inviolability. <sup>1</sup>
Honorably Consular Officers	Yes	Yes	Yes	No—for official acts. Yes, in all other cases.	No—for official acts. Otherwise, Yes	No immunity or inviolability.
Consular Employees	Yes <sup>1</sup>	Yes	Yes	No—for official acts. Yes, in all other cases.	No—for official acts. Otherwise, Yes <sup>1</sup>	No immunity or inviolability. <sup>1</sup>
International Organization Staff <sup>2</sup>	Yes <sup>2</sup>	Yes <sup>1</sup>	Yes	Yes <sup>2</sup>	No—for official acts. Otherwise, Yes <sup>2</sup>	No immunity or inviolability.
Diplomatic-Level Staff of Missions to Int'l Orgs.	No <sup>2</sup>	No	Yes	No	No	Same as sponsor (full immunity & inviolability).
Support Staff of Missions to International Organizations	Yes	Yes	Yes	Yes	No—for official acts. Otherwise, Yes	No immunity or inviolability.